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EXAMINER

USTARIS, JOSEPH G

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Response to Arguments***

1. Applicant's arguments filed March 30, 2009 have been fully considered but they are not persuasive.

Applicant argues with respect to claims 1, 4, and 6 that Yoshida and Meier does not disclose a visual stream incorporating patterns and changing colors at the frequency of between 3 and 30 Hz and in concert with sound. However, reading the claims in the broadest sense, Yoshida in view of Meier does disclose that limitation in the claims. Yoshida discloses changing of colors (e.g. color blue and the absence of blue) along with sound help to induce sleep (Col. 5, lines 18-30; Col. 7, lines 35-Col. 8, lines 60). Furthermore, Meier also discloses a visual stream that incorporates patterns and changes colors in concert with sound (See Meier col. 17 lines 21-43). Yoshida also discloses that changing colors and sound together at frequencies known to induce sleep actually help to induce sleep (See Yoshida col. 5 lines 18-30 and col. 7 line 35 – col. 8 line 40). Therefore, applying patterns and color changes at frequencies known to induce sleep will help the user/subject fall asleep, based on the teaching from Yoshida. Thus, Yoshida in view of Meier would yield a predictable result of providing a visual stream incorporating patterns and changing colors at the frequency of between 3 and 30 Hz and in concert with sound.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH G. USTARIS whose telephone number is (571)272-7383. The examiner can normally be reached on M-F 7:30-5 PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph G Ustaris/  
Primary Examiner, Art Unit 2424